



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
GREAT LAKES NATIONAL PROGRAM OFFICE
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAY - 8 2012

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Arlene Pitsch, Registered Agent
Pitsch Sanitary Landfill, Inc.
675 Richmond NW
Grand Rapids, Michigan 49504

Re: In the matter of Pitsch Sanitary Landfill, Inc.
Administrative Consent Order EPA-5-12-113(a)-MI-03

Dear Ms. Pitsch:

Enclosed please find a fully-executed, original copy of the above-referenced Administrative Order. It has been signed by George T. Czerniak, Acting Director of the Air and Radiation Division, U.S. Environmental Protection Agency, Region 5, and is effective as of the date of his signature. If you have any questions, please contact Bonnie Bush of my staff at (312) 353-6684, or Ann Coyle at (312) 886-2248 of the office of Regional Counsel. Thank you for your cooperation in this matter.

Sincerely yours,

Sara Breneman

Sara Breneman, Chief
Air Enforcement and Compliance Assurance Section (MI/WT)
Air Enforcement and Compliance Assurance Branch

Enclosure



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	EPA-5-12-113(a)-MI-03
)	
Pitsch Sanitary Landfill, Inc.)	Proceeding Under Sections 113(a)(3) and
Belding, Michigan)	114(a)(1) of the Clean Air Act,
)	42 U.S.C. §§ 7413(a)(3) and 7414(a)(1)
_____)	

Administrative Consent Order

1. The Director of the Air and Radiation Division, U.S. Environmental Protection Agency, Region 5, is issuing this Order to Pitsch Sanitary Landfill, Inc. (Pitsch), under Sections 113(a)(3) and 114(a)(1) of the Clean Air Act (Act), 42 U.S.C. §§ 7413(a)(3) and 7414(a)(1).

Statutory and Regulatory Background

2. Under Section 111 of the Act, EPA promulgated the Standards of Performance for New Stationary Sources (NSPS) General Provisions at 40 C.F.R. §§ 60.1 through 60.19.

3. The NSPS General Provisions apply to the owner or operator of any stationary source that contains an affected facility, the construction or modification of which is commenced after the date of publication in this part of any standard applicable to that facility.

4. The NSPS General Provisions, at 40 C.F.R. § 60.8, set forth general requirements for performance tests.

5. The NSPS General Provisions, at 40 C.F.R. § 60.18, set forth general control device and work practice requirements, including among other things, at 40 C.F.R. § 60.18(b)-(f), requirements for flares.

6. Under Section 111 of the Act, 42 U.S.C. § 7411, EPA promulgated the NSPS for Municipal Solid Waste Landfills (MSWL) at 40 C.F.R. §§ 60.750 through 60.759 (Subpart WWW).

7. The NSPS for MSWL, at 40 C.F.R. § 60.750, specifies that Subpart WWW applies to each municipal solid waste landfill that commenced construction, reconstruction or modification on or after May 30, 1991.

8. The NSPS for MSWL, at 40 C.F.R. § 60.755, sets forth compliance provisions for municipal solid waste landfills including, among other things, at 40 C.F.R. § 60.755(c), procedures for compliance with the surface methane operational standard and, at 40 C.F.R. § 60.755(e), start-up, shutdown and malfunction (SSM) provisions.

9. The NSPS for MSWL, at 40 C.F.R. § 60.756, sets forth requirements for monitoring of operations at municipal solid waste landfills.

10. The NSPS for MSWL, at 40 C.F.R. § 60.757, sets forth reporting requirements for municipal solid waste landfills including among other things, at 40 C.F.R. § 60.757(a) and (b), requirements for initial and amended design capacity reports and non-methane organic compound (NMOC) reports.

11. Under Section 112 of the Act, EPA promulgated the National Emission Standards for Hazardous Air Pollutants (NESHAP) General Provisions at 40 C.F.R. §§ 63.1 through 63.16.

12. The NESHAP General Provisions apply to, among other things, the owner or operator of any stationary source that is subject to any standard, limitation, prohibition or other federally enforceable requirement established pursuant to 40 C.F.R. Part 63.

13. The NESHAP General Provisions, at 40 C.F.R. § 63.10, set forth general requirements for recordkeeping and reporting including, but not limited to, SSMS and SSM plans.

14. Under Section 112 of the Act, EPA promulgated the NESHAP for MSWL 40 C.F.R. §§ 63.1930 through 63.1990 (Subpart AAAA).

15. The NESHAP for MSWL applies to owners and operators of any MSWL that, among other things, has accepted waste since November 8, 1987.

16. Section 502(a) of the Act, 42 U.S.C. § 7661(a), and 40 C.F.R. § 70.7(b) provide that, after the effective date of any permit program approved or promulgated under Title V of the Act, no source subject to Title V may operate except in compliance with a Title V permit.

17. EPA granted final interim approval to the Michigan Title V operating permit program on January 10, 1997. 62 Fed. Reg. 1387. The program became effective on February 10, 1997. The Michigan Title V program was granted final full approval by EPA, effective November 30, 2001. 66 Fed. Reg. 62949. 40 C.F.R. Part 70, Appendix A. The State of Michigan calls its Title V permits “renewable operating permits.”

18. Michigan R 336.1211(1)(d) provides that any MSWL that has a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters is subject to the requirements of Michigan R 336.1210 to obtain and only operate in compliance with a renewable operating permit.

19. Under Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3), the Administrator of EPA may issue an order requiring compliance to any person who has violated or is violating the NSPS and NESHAP regulations or a permit issued under Title V of the Act. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

20. Under Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1), the Administrator of EPA may require any person who owns or operates an emission source to make reports, sample emissions and provide information required by the Administrator on a one-time, periodic or continuous basis. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

Findings

21. Pitsch owns and operates a municipal solid waste landfill at 7905 Johnson Road, Belding, Michigan (Belding landfill), which accepts waste including municipal and household solid waste.

22. Pitsch is an “owner or operator” as defined at 40 C.F.R. §§ 60.2 and 63.2.

23. Pitsch’s Belding landfill is an “affected facility” and a “stationary source,” as defined at 40 C.F.R. § 60.2.

24. Pitsch’s Belding landfill is a “municipal solid waste landfill” as defined at 40 C.F.R. §§ 60.751 and 63.1990.

25. At all times relevant to this Order, Pitsch’s Belding landfill has emitted or had the potential to emit municipal solid waste landfill emissions and NMOC, which are air pollutants regulated by 40 C.F.R. Part 60, Subpart WWW and by 40 C.F.R. Part 63, Subpart AAAA.

26. Pitsch received a construction permit from the Michigan Department of Environmental Quality (MDEQ) in August 1999 for construction of new cells which increased Pitsch’s Belding landfill’s design capacity to greater than 3.2 million cubic meters.

27. Pitsch began construction of Cell V on September 15, 1999.

28. At all times relevant to this Order, Pitsch’s Belding landfill has been subject to the NSPS General Provisions and the NSPS for MSWL at 40 C.F.R. Part 60, Subpart WWW.

29. Pitsch began accepting waste at its Belding landfill in 1975.

30. Pitsch's Belding landfill is an "affected source," as defined at 40 C.F.R. §§ 63.2 and 63.1940, and a "stationary source" and "area source," as defined at 40 C.F.R. § 63.2.

31. At all times relevant to this Order, Pitsch's Belding landfill has been subject to the NESHAP for MSWL at 40 C.F.R. Part 63, Subpart AAAA, and the NESHAP General Provisions at 40 C.F.R. Part 63, Subpart A.

32. Pitsch submitted an application for a renewable operating permit for its Belding landfill to the MDEQ in September 2007.

33. MDEQ issued a final renewable operating permit to Pitsch for the Belding landfill, effective October 2, 2009, ROP No. MI-ROP-N5619-2009 (ROP).

34. Pitsch owns and operates flares as part of a passive gas collection system at its Belding landfill. It also owns and operates an active gas collection system at its Belding landfill.

35. Pitsch owns or operates an "emission source" within the meaning of Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1); therefore, Pitsch is subject to the requirements of Section 114(a)(1).

36. On July 11, 2011, EPA issued a Finding of Violation to Pitsch. In the FOV, EPA alleged that Pitsch failed to: timely conduct performance testing, operate and maintain its flares in compliance with the NSPS General Provisions at 40 C.F.R. Part 60, Subpart A, the NSPS for MSWL at 40 C.F.R. Part 60, Subpart WWW, and its ROP; timely or correctly submit certain reports in violation of the NSPS for MSWL at 40 C.F.R. Part 60, Subpart WWW, the NESHAP General Provisions at 40 C.F.R. Part 63, Subpart A, its ROP and 40 C.F.R. § 70.7(b); and perform monitoring in accordance with the NSPS for MSWL at 40 C.F.R. Part 60, Subpart WWW, its ROP and 40 C.F.R. § 70.7(b).

37. On October 14, 2011, representatives of Pitsch and EPA discussed the July 11, 2011, finding of violation.

38. EPA finds that Pitsch violated Sections 111(e), 112 and 502(a) of the Act, 42 U.S.C. §§ 7411(e), 7412 and 7661a(a); the NSPS General Provisions at 40 C.F.R. § 60.8(a); the NSPS for MSWL at 40 C.F.R. §§ 60.757(a)(3) and (b); the NESHAP General Provisions at 40 C.F.R. § 63.10(d)(5)(i); 40 C.F.R. § 70.7(b) and its ROP.

Compliance Program

39. Not inconsistent with the terms of this Order, by the effective date of this Order, Pitsch must achieve, demonstrate and maintain compliance with the Sections 111(e), 112 and 502(a) of the Act, 42 U.S.C. §§ 7411(e), 7412 and 7661a(a); the NSPS General Provisions at 40 C.F.R. Part 60, Subpart A; the NSPS for MSWL at 40 C.F.R. Part 60, Subpart WWW; the NESHAP General Provisions at 40 C.F.R. Part 63, Subpart A; the NESHAP for MSWL at 40 C.F.R. Part 63, Subpart AAAA; 40 C.F.R. § 70.7(b) and its ROP at its Belding, Michigan facility.

40. Pitsch must conduct monitoring and keep records as specified by the NSPS for MSWL and its ROP and timely submit all reports required by the NSPS for MSWL, the NESHAP General Provisions and its ROP.

41. Under Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1), Pitsch must conduct testing to demonstrate current NMOC emissions from the Belding landfill, using the procedures specified at 40 C.F.R. § 60.754(a)(3) and in accordance with the following requirements:

- a. Pitsch must conduct the test procedures specified in this paragraph on three successive test dates. The test dates shall be no less than 90 days apart and no more than 180 days apart.

- b. Pitsch must submit a test plan to EPA for review and approval within 60 days of the effective date of this Order. If Pitsch revises the test plan prior to either of the successive tests, it must submit the revised plan to EPA 60 days prior to each corresponding test date.
- c. Pitsch must conduct the first of the three tests within 45 days after EPA approves the test plan.
- d. If EPA does not approve the test plan, EPA shall provide written disapproval to Pitsch within 30 days of EPA's receipt of the plan. If EPA does not respond within 30 days, Pitsch may proceed with testing according to the submitted plan.
- e. Pitsch must submit a test report for each of the three tests to EPA within 45 days of the test.
- f. The deadlines set forth in Paragraphs 41.a-e, above, may be modified upon request by Pitsch and approval in writing by EPA.

42. After completing the initial performance testing as set forth in paragraph 41, Pitsch must thereafter submit an annual NMOC emission rate report containing an estimate of the NMOC emission rate calculated using the formula and procedures provided in 40 C.F.R. § 60.754(a) or (b), as applicable, for three years. Pitsch must submit the first of the three annual reports one year after submittal of the third of the three test reports specified in paragraph 41.e.

43. If all testing and emission estimates required above in paragraphs 41 and 42 of this Order show NMOC emissions to be below 50 Mg/yr., Pitsch may submit a periodic emission rate report every 5 years consistent with 40 C.F.R. 60.757(b)(1)(ii).

44. Pitsch may discontinue submitting the annual NMOC emission rate reports required in paragraphs 42 and 43, above, upon capping or removal of the capture and collection system and closure of the landfill pursuant to 40 C.F.R. § 60.752(b)(2)(v).

45. Pitsch must send all reports required by this Order to:

Attention: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

General Provisions

46. This Order does not affect Pitsch's responsibility to comply with other federal, state and local laws.

47. This Order does not restrict EPA's authority to enforce Sections 111 and 112 or any other section of the Act.

48. Nothing in this Order limits the EPA's authority to seek appropriate relief, including penalties, under Section 113 of the Act, 42 U.S.C. § 7413, for Pitsch's violations of the NSPS General Provisions, the NSPS for MSWL, the NESHAP General Provisions, the NESHAP for MSWL, Pitsch's ROP permit or 40 C.F.R. § 70.7(b).

49. Failure to comply with this Order may subject Pitsch to penalties of up to \$37,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413, and 40 C.F.R. Part 19.

50. The terms of this Order are binding on Pitsch, its assignees and successors. Pitsch must give notice of this Order to any successors in interest prior to transferring ownership and must simultaneously verify to EPA, at the above address, that it has given the notice.

51. Pitsch may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B, for any portion of the information it submits to EPA. Information subject to a

business confidentiality claim is available to the public only to the extent allowed by 40 C.F.R. Part 2, Subpart B. If Pitsch fails to assert a business confidentiality claim, EPA may make all submitted information available, without further notice, to any member of the public who requests it. Emission data provided under Section 114 of the Act, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B. "Emission data" is defined at 40 C.F.R. § 2.301.


52. This order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*, because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation. To aid in our electronic recordkeeping efforts, please furnish an electronic copy on CD or thumb drive. If not possible, provide your response to this Order without staples; paper clips and binder clips, however, are acceptable.

53. EPA may use any information submitted under this Order in an administrative, civil judicial or criminal action.

54. Pitsch agrees to the terms of this Order.

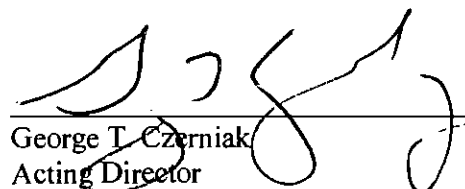
55. This Order is effective on the date of signature by the Director of the Air and Radiation Division.

April 25, 2012
Date



Gary Pitsch
Vice President
Pitsch Sanitary Landfill, Inc.

5/8/12
Date



George T. Czerniak
Acting Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent the Administrative Consent Order, EPA Order No.

EPA-5-12-113(a)-MI-03, by certified mail, return receipt requested, to:

Andrew C. Vredenburg
Foster Swift Collins & Smith, P.C.
1700 East Beltline, NE., Suite 200
Grand Rapids, Michigan 49525-7044

I also certify that I sent a copy of the Administrative Consent Order, EPA Order No.

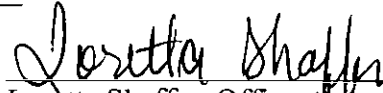
EPA-5-12-113(a)-MI-03, by first-class mail to:

Mr. Gary Pitsch
Pitsch Companies
675 Richmond NW
Grand Rapids, Michigan 49504

Thomas E. Hess, Enforcement Unit Supervisor
Air Quality Division, Enforcement Unit
Michigan Department of Environmental Quality
Constitution Hall, 3rd Floor North Tower
525 West Allegan
Lansing, Michigan 48933

Heidi Hollenbach, Supervisor
Grand Rapids District Office
Air Quality Division
Michigan Department of Environmental Quality
State Office Building, 6th Floor
350 Ottawa Avenue NW, Unit 10
Grand Rapids, Michigan 49503-2341

On the 9 day of May 2012.



Loretta Shaffer, Office Automation Assistant
AECAB, Planning and Administration Section

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7669 6869